

23<sup>rd</sup> September 2022

Quality of Advice Review Secretariat  
Financial System Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Via email: [advicereview@treasury.gov.au](mailto:advicereview@treasury.gov.au)

## RE: Quality of Advice Review – Proposals Paper September 2022

### 1. Introduction

Grain Trade Australia (GTA) welcomes the opportunity offered by the Australian Treasury to provide further input into the Quality of Advice Review and specifically on the proposals for reform listed in the Proposals for Reform Paper.

GTA has also recently provided feedback on:

1. The *Quality of Advice Review Issues* Paper (February 2022) ([Link: here](#))
2. The draft Terms of Reference for the Government's *Review of the Quality of Financial Advice to consider how the regulatory framework could better enable the provision of high quality, accessible and affordable financial advice for retail investors*; (February 2022) ([Link: here](#)) and
3. The Government's Policy Paper "*Education Standards for Financial Advisors*" published in December 2021 ([Link: here](#)).
4. Consultation paper (August 2022) on *Financial Advisor Education Standards* (Link: [here](#)).

### 2. About GTA

Grain Trade Australia (GTA) is a national member association and is the focal point for the commercial grain industry within Australia.

GTA has over 270 organisations as members. Their businesses range from regional family businesses to large national and international trading/storage and handling companies who are involved in grain trading activities, grain storage, grain marketing advisory services, processing grain for human consumption and stock feed milling. GTA Members are substantial employers, from the farm gate through to end point consumption, and notably in rural and regional Australia. A full list of GTA Members can be found [here](#).

GTA's core focus is to 'facilitate trade' in the Australian grain industry. It's products and services, including the Australia Grain Industry Code of Practice, provides a self-regulatory framework across the grain industry to facilitate and promote the trade of grain within the Australian grain value chain.

A key segment within this industry framework is GTA members who provide commodity marketing & price risk management services (advisory services) to Australian grain producers and consumers.

GTA members who provide these services with an AFSL provide advice specifically to help grain producers and consumers manage their price risk in relation to agricultural commodities and foreign exchange using financial and non-financial products. These advisors are not providing holistic plans in relation to their clients broader investment needs (superannuation, insurance etc) but scoped,

focussed advice related to commodity price risk – which is usually a condition or limitation under their AFSL.

### 3. GTA Feedback – The Review Process and Reform Proposals

GTA is broadly supportive of the suggested **principle based** approach in the reform proposals to focus on the “*quality of advice*”, rather the procedural compliance focus of the current regime. This approach should assist GTA members providing practical advice on commodity price risk that is relevant to their clients, rather than seeking to comply with an AFSL framework that is more procedural than outcome focused and does not allow for contexts outside of a narrow view of financial services and financial planning.

Whilst we would be very disappointed if the proposed reforms do not get approved and implemented, and the procedural compliance regulatory focus is maintained, then we would strongly advocate for a move away from the current financial service requirements and towards more relevant and fit for purpose commodity price risk requirements. With training and compliance measures tailored around understanding price risk, futures, and options along with a wider understanding of the grain market as a whole. Further, any regulatory approach should take into the account length of time in the industry as an educational training and standard alongside university level degrees.

The grain industry and its grain market advisors have long suffered from the ‘one size fits all’ regulatory approach, so the proposed reforms on the process advisors in each particular market segment apply **to provide quality advice** is welcomed. GTA welcomes any simple principles-based regulation compared to the current detailed requirements to allow the law to better function and to reduce the cost of compliance.

### 4. Personal or General Advice

Grain marketing financial advice is a specialist area and is provided through small and mainly rural based companies that are skilled in dealing with grain producers and consumers and their specific market advice needs. The view of GTA and its members who provide grain marketing advice is there are many areas of the current framework are not ‘fit for purpose’, disproportionate and result in excessive regulation and cost burden for advisors that provide focussed advice on specific commodity and foreign exchange products to grain growers and consumers.

GTA members who provide grain marketing advisory services provide grain producers and consumers with the information and advice needed to make informed decisions on their commodity marketing and price risk management. They do not provide investment advice. The advice they provide is used by grain producers to improve their relative position relating to grain sales and includes:

1. Commodity (grain) market analysis and price discovery,
2. Brokerage of physical grain (not a financial product),
3. Use of price risk management tools (derivatives like Swaps, Futures, Options),
4. Hedging foreign exchange (either a part of a derivative or for cash flow purposes), and
5. Grain sale/purchase and contract optimisation (not a financial product).

Only some of these aspects of advice (e.g., derivatives) currently require an AFSL, however GTA support the principles and objective of providing good *quality advice*. GTA and its members will need to consider and understand how the proposed changes to the definition of *Personal Advice* will play out in a practical sense and what that means for the small rural based providers of grain marketing advisory services. It is somewhat difficult to understand precise details and scenarios based on the information provided in the Proposals Paper. For example, a question from our members is ‘where would grain marketing advisors fall in the proposed regime?’

We are broadly supportive of the proposed broadening of the definition of *Personal Advice* and the removal of *General Advice* from the regulation and suggest further consideration and understanding of the consequences of this. We would seek assurance that the proposed changes for *General* and *Personal Advice* do not result in broadened scope or “capture” of *Personal Advice*. Further we would caution changes not be an avenue for untrained, inexperienced, unprofessional non-AFSL regulated advisors to be able to either continue in or enter the into the marketplace

## 5. Compliance Costs and Burden

A key issue for GTA members that provide grain marketing advice are cost increases to provide services that relate to an increased compliance burden, more comprehensive due diligence process, and more time required to meet the *best interests* duty. Of note also is the provision for professional indemnity insurance as this is a difficult burden for a small business with a retail AFSL to procure.

The impact of any regulatory change including the current proposed changes must consider compliance costs including the establishment and maintenance cost of systems and processes to support clients and the significant increases in compliance cost, training and professional indemnity.

## 6. Education and Training Standards

GTA notes the Proposals Paper includes commentary that the Government is separately reviewing the education and training standards. Whilst a review is welcomed and much needed it should be performed in conjunction and within the same time frame as this Treasury review process to ensure aligned outcomes and timing.

## 7. General Comments and Consultation Questions

Attachment 1 includes GTA's response to the Consultation Questions that are relevant to GTA members who provide grain marketing advisory services. These responses include general or additional issues:

- We are supportive of a reduced procedural approach, and stronger focus on a principles and practical regulatory approach, that will allow more specialised and contextual advice to grain growers and consumers and the reduce compliance/regulatory burden and associated costs.
- Feedback from our members notes that more clarity on the definition of “wholesale: and “retail” clients in the legislation would be welcome and assist in applying regulatory and AFSL requirements.
- Further clarity would be useful on the “*relevant provider*” in terms of the requirements and when it applies.
- “*Good advice*” should be advice that based on the information and circumstances at the time it is provided, advice that is understood by the client, advice that actually places the client in a better position prior to its provision and advice that the client has ownership of.
- We support the proposals on ongoing fee arrangements and consent requirements. The proposals simplify both the requirements of the process and for the consumer makes it a simply decision to continue or not continue with the service.
- We agree with the intent of the Statement of Advice proposal. SOA's can be an impediment to both the provision of good and useful advice and in the consumer of that advice actually understanding and even acting on the advice.
- We would welcome the opportunity on working with Treasury to develop a “grain marketing Cameo” scenario and table to assist in industry understanding the reforms and practical impacts.

## 8. Conclusion

GTA welcomes the further opportunity offered by the Australian Treasury to provide comment on the issues raised in the *Quality of Advice Review – Proposals for Reform Paper August 2022*.

GTA's grain marketing advisor members continue to be burdened with the considerable consequences of current legislation and its implementation. We believe it is important this Review specifically consider how to better support limited scope advisory services such as grain marketing advisory services.

I look forward to the progress of this review and further opportunities to engage and provide input.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'POShannassy'.

**Pat O'Shannassy**  
**CEO, Grain Trade Australia**

Attachment:

1. GTA response to Consultation Questions

## Attachment 1 Consultation Questions

Question	Discussion
<b>Intended outcomes &amp; What should be regulated?</b>	<ol style="list-style-type: none"> <li>1. GTA agree with the proposed principle rather than prescribed/procedural based approach</li> <li>2. Personal advice should meet the context, expectations and demands of the customer without being overly impacted by the compliance burden and requirements of over prescriptive and sometimes irrelevant regulation.</li> <li>3. The impact of the proposed broadening of ‘personal advice’ may create an increase in uncertainty regarding the definition of ‘personal advice’ and what forms of advice and products falls outside the definition. Given ‘general advice’ may be de-regulated it is critical there is clarity and across industry a good understanding of what ‘personal advice’ captures. This should be a focus of the Review.</li> <li>4. GTA has no specific comment to provide on whether the general consumer protections are enough of a safeguard for consumers other than the panel consider the hurdles and onus required to establish any misleading or deceptive conduct is commensurate with the proposed changes.</li> </ol>
<b>How should personal advice be regulated?</b>	<ol style="list-style-type: none"> <li>1. GTA expects replacing the “best interest” obligations with the obligation to provide “good advice” will allow grain marketing advisors to provide more personal, relevant and contextualised advice to grain growers and consumers.</li> <li>2. We would anticipate the proposed reforms should reduce the compliance time, cost and compliance burden on advisors (much of which is not relevant to the quality of advice provided to grain growers and consumers).</li> <li>3. We have no comment to make to questions related to limited advice and technological solutions.</li> <li>4. In terms of professional standards, the reforms should ensure training and professional development requirements are appropriate to the circumstances and context of the advice and not a “one size fits all” approach (as is currently the case).</li> <li>5. We agree that licensing obligations (which require licensees to ensure that their representatives are adequately trained and competent to provide financial services sufficient to ensure the quality of advice provided to consumers) are adequate.</li> <li>6. We expect grain marketing advice to become more relevant, affordable, and accessible. We also anticipate reduced compliance costs and burden will encourage retention of experienced advisors in the industry and bringing new and emerging advisors into the grain marketing advisory businesses (which are generally small businesses, not financial institutions).</li> </ol>
<b>Superannuation funds and intra- fund advice</b>	<ol style="list-style-type: none"> <li>1. This question is not applicable to GTA members</li> </ol>
<b>Disclosure documents</b>	<ol style="list-style-type: none"> <li>1. The streamlined requirements should reduce regulatory burden without impacting consumer value.</li> <li>2. Removing the statement of advice will reduce the cost of providing advice without negatively impacting consumers. We would agree with the report that consumers of grain marketing advice do not want lengthy templated disclosure documents.</li> <li>3. Removal of the financial services guide requirement and making it available on a website is also considered an appropriate and logical step.</li> </ol>

Question	Discussion
<b>Design and distribution obligations</b>	<ol style="list-style-type: none"> <li>1. Having a requirement to ensure products are suitable for the consumer remains important.</li> </ol>
<b>Transition and enforcement</b>	<ol style="list-style-type: none"> <li>1. A transition period seems sensible, noting these may vary across relevant sectors and business size.</li> </ol>
<b>General</b>	<ol style="list-style-type: none"> <li>1. Refer more generally to the GTA cover letter. We are supportive to reduce procedural approach, to principles and practical regulatory approach, that will allow more specialised and contextual advice to grain growers and consumers and reduce compliance/regulatory burden and associated costs.</li> <li>2. Feedback from our members notes that more clarity on the definition of “wholesale” and “retail” clients in the legislation would be welcome and assist in applying regulatory and AFSL requirements.</li> <li>3. Further clarity would be useful on the “relevant provider” in terms of the requirements and when it applies.</li> <li>4. “<i>Good advice</i>” should be advice that based on the information and circumstances at the time it is provided, advice that is understood by the client, advice that actually places the client in a better position prior to its provision and advice that the client has ownership of.</li> <li>5. We support the Ongoing fee arrangements and consent requirements proposals The proposals simplifies both the requirements of the process and for the consumer makes it a simply decision to continue or not continue with the service.</li> <li>6. We agree with the intent of the Statement of Advice proposal. SOA’s can be an impediment to both the provision of good and useful advice and in the consumer of that advice actually understanding and even acting on the advice.</li> <li>7. We would welcome the opportunity on working with Treasury to develop a “grain marketing Cameo” scenario and table to assist in industry understanding the reforms and practical impacts.</li> </ol>

END.